

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**March 26, 1998**

DIVISION ONE

B113450      People                          (Not for Publication)  
v.  
Marquez

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The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.  
Masterson, J.

[illegible]

The judgment is affirmed.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.  
Masterson, J.

B112510 People v. Russo (Not for Publication)  
B117780 In re Russo on Habeas Corpus

The judgment is affirmed. The petition is denied.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Ortega, J.

DIVISION ONE (Continued)

B104778      Wilson et al.                      (Not for Publication)  
                 v.  
                 Black et al.

The judgment of dismissal is reversed, and the cause is remanded to the trial court with directions to vacate its order sustaining the demurrer without leave to amend, and to enter a new and different order overruling the demurrer and specifying the time within which an answer must be filed to the second amended complaint. John R. Wilson is awarded his costs of appeal.

Vogel (Miriam A.), Acting P.J.

We concur:   Masterson, J.  
                 Dunn, J. (Assigned)

B117776      Hallberg                                      (Not for Publication)  
                 v.  
                 S.C.L.A.  
                 (Johnson, rpi)

Let a peremptory writ of mandate issue commanding the trial court to (1) vacate its order denying Hallberg's motion for summary judgment, (2) enter a new and different order granting Hallberg's motion for summary judgment, (3) enter a judgment, including costs, in favor of Hallberg and against Scott Wallace Johnson, and (4) discharge its order to show cause re sanctions. Hallberg is awarded her costs of these writ proceedings. The stay heretofore issued shall be lifted on the date this order becomes final, without further order from us.

Vogel (Miriam A.), J.

We concur:   Spencer, P.J.  
                 Masterson, J.

DIVISION ONE (Continued)

B115206      Cavalier      (Not for Publication)  
                 v.  
                 Holden et al.

The judgment is reversed, and the cause is remanded to the trial court with directions to vacate its order granting summary judgment and to set the case for trial. Cavalier is awarded her costs of appeal.

Vogel (Miriam A.), J.

We concur:   Ortega, Acting P.J.  
                 Masterson, J.

B099745      Trachtman et al.      (Not for Publication)  
                 v.  
                 California Cryobank, Inc.

We reverse the summary judgment, vacate the order granting the motion for summary judgment, and direct the trial court on remand to grant plaintiff leave to amend the complaint in the manner indicated in this opinion. Plaintiff is awarded costs.

Ortega, J.

We concur:   Spencer, P.J.  
                 Masterson, J.

B109505      Quackenbush, etc.      (Certified for Publication)  
                 v.  
                 Mission Insurance Co., etc.

We affirm the trial court's order upholding the amended plan. Respondents are entitled to their costs.

Ortega, J.

We concur:   Spencer, P.J.  
                 Dunn, J. (Assigned)

### March 26, 1998-Continued

## DIVISION ONE (Continued)

B113293      Pendleton      (Certified for Publication)  
v.  
Fireman

The order is reversed and the cause is remanded to the trial court with directions to determine the enforceability of the spousal support waiver. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Masterson, J.

B113292 Gutierrez (Certified for Publication)  
v.  
Board of Retirement of the Los Angeles County  
Employees Retirement Assoc.

The judgment is reversed, and the cause is remanded to the trial court with directions to enter a new judgment in favor of the Board of Retirement. The Board is entitled to its costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.  
Masterson, J.

[illegible]

The judgment is affirmed.

Masterson, J.

We concur: Ortega, Acting P.J.  
Dunn, J. (Assigned)

March 26, 1998-Continued

## DIVISION ONE (Continued)

[illegible]

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.  
Ortega, J.

B112559 People (Not for Publication)  
v.  
Emerson M.

The order under review is affirmed.

Masterson, J.

We concur: Ortega, Acting P.J.  
Dunn, J. (Assigned)

[illegible]

The judgment is affirmed.

Masterson, J.

We concur: Ortega, Acting P.J.  
Vogel (Miriam A.), J.

## DIVISION ONE (Continued)

[illegible]

The judgment is modified by striking the four-year term for the firearm use enhancement in count 2 (Pen. Code, § 12022.5, subd. (a)) and imposing in its place a 16-month term, and by striking the two-year concurrent terms for the bail enhancements imposed in counts 2 and 3 (Pen. Code, § 12022.1), for a total sentence of 18 years. The court is directed to amend the abstract of judgment accordingly and to forward it to the Department of Corrections. As modified, the judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.  
Vogel (Miriam A.), J.

B094459 Kasper et al. (Certified for Publication)  
v.  
Cedars-Sinai Medical Center et al.

The appeals are dismissed. Defendants are awarded their costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.  
Masterson, J.

DIVISION ONE (Continued)

B117294      Truck Insurance Exchange et al.                      (Certified for Publication)  
                 v.  
                 Superior Court, Los Angeles County  
                 (Peck/Jones Construction Corp. et al., r.p.i.)

Let a peremptory writ of mandate issue commanding the trial court to (1) vacate its order and statement of decision, (2) enter a new order with a finding of no coverage, and (3) enter a final judgment in favor of Truck Insurance Exchange. Truck is awarded its costs of these writ proceedings.

Vogel (Miriam A.), Acting P.J.

We concur:    Ortega, Acting P.J.  
                 Masterson, J.

B116901      International Insurance Co. et al.                      (Certified for Publication)  
                 v.  
                 Superior Court, Los Angeles County  
                 (Rhone-Poulenc, etc., r.p.i.)

The petition for writ of mandate is denied. Rhone-Poulenc is awarded its costs of these writ proceedings.

Vogel (Miriam A.), J.

We concur:    Spencer, P.J.  
                 Masterson, J.

DIVISION TWO

Court convened at 9:15 A.M.

Present: Boren, P.J., Fukuto, J., Nott, J., Zebrowski, J., and G. Villanueva, Deputy Clerk.

B112757      People  
                 v.  
                 Byron Dale B.

Merits:  
Argued by Jennifer Leal, Deputy Attorney General for respondent and by Gerald Serlin for appellant. Cause submitted.

DIVISION TWO (Continued)

B112384     People  
              v.  
              Allen

Merits:

Argued by Analee Nationas, Deputy Attorney General for respondent and by Leslie Greenbaum for appellant. Cause submitted.

B112316     People  
              v.  
              Downs

Merits:

Argued by Deborah Chuang, Deputy Attorney General for respondent and by Allen Weinberg for appellant. Cause submitted.

B111561     People  
              v.  
              Smith

Merits:

Argued by Roy Preminger, Deputy Attorney General for respondent and by Allen Weinberg for appellant. Cause submitted.

B110739     Goodstein  
              v.  
              Elstead

Merits:

Argued by John Elstead, appellant in propria persona. No appearance on behalf of respondent. Cause submitted.



DIVISION TWO (Continued)

B107641     L.A. Tryptophan  
              v.  
              Anagnostopoulos

Merits:  
Argued by John Taylor for appellant and by Jerome English for respondent.  
Cause submitted.

B109421     Bank of America  
              v.  
              Ojeda

Merits:  
Argued by Gary Tokumori for respondent and by Ron Rale for appellant.  
Cause submitted.

B112945     Johnson  
              v.  
              City of Vernon

Merits:  
Argued by Susan Silver for respondent and by Eduardo Olivo for appellant.  
Cause submitted.

B106814     People  
              v.  
              Belmonte

Merits:  
Argued by Jeannie Park, Deputy Attorney General for respondent and by  
Dale Rubin for appellant. Cause submitted.

DIVISION TWO (Continued)

B110367     Fox  
              v.  
              Levy

Merits:  
Argued by Ronald Selgrath for respondent and by Paul Smith for appellant.  
Cause submitted.

B110386     Madan  
              v.  
              County of L.A.

Merits:  
Argued by Alda Shelton for appellant and by Barbara Perry for respondent.  
Cause submitted.

B109771     Bedrosian  
              v.  
              National Medical Ent,

Merits:  
Argued by Jefferson Gross for appellant and by Mark Epstein for  
respondent. Cause submitted.

Court recessed.

The Court reconvened at 1:00 P.M.

Present: Boren, P.J., Fukuto, J., Nott, J., Zebrowski, J., and J. Chlanda, Deputy Clerk.

B108294     People  
              v.  
              Chung

Merits:  
Argued by Stephanie Miyoshi, Deputy Attorney General for respondent and  
by Maxine Weksler for appellant. Cause submitted.

DIVISION TWO (Continued)

B110713     Shirilla  
              v.  
              Lipson

Merits:  
Argued by Victoria Labrie for appellant and by James Montgomery for respondent. Cause submitted.

B113608     Salser  
              v.  
              Western Area Council Boy Scouts of America

Merits:  
Argued by Paul Kelley for appellant and by Edward Dylert for respondent. Cause submitted.

B105628     Watson  
              v.  
              County of L.A.

Merits:  
Argued by Regina Nergenah for appellant and by Charles Collins for respondent. Cause submitted.

B105894     Hurst  
              v.  
              Hale

Merits:  
Argued by David Nelson for respondent and by Kayretha Willis for appellants. Cause submitted.

DIVISION TWO (Continued)

B105370      Carrillo  
                 v.  
                 Wincup  
                 (Amoco Chem., r.p.i.)

Merits:

Argued by Jerome Ringler for appellant and by Stephen Acker and Ivan Stevenson for respondents. Cause submitted.

B117928      Regency Health Services  
                 v.  
                 Superior Court, L.A. County  
                 (Settles, r.p.i.)

Merits:

Argued by Kent Richland for petitioner and by Russ Balisok for real party in interest. Cause submitted.

Mr. Justice Zebrowski leaves the bench.

B083423      Clark  
                 v.  
                 Decatrend Corp.

Merits:

Argued by Gerald Palmer for respondent and by Barry Langberg for appellants. Cause submitted.

Court adjourned.

March 26, 1998-Continued

## DIVISION TWO (Continued)

[illegible]

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

B107131      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Stephanie B.

The orders appealed from are affirmed.

Zebrowski, J.

We concur:   Fukuto, Acting P.J.  
                      Nott, J.

B111750 Henry (Not for Publication)  
v.  
Board of Dental Examiners

The judgment entered after the sustaining of respondent's demurrer to appellant's complaint without leave to amend is affirmed. Respondent to recover costs on appeal.

Zebrowski, J.

We concur: Boren, P.J.  
Fukuto, J.

March 26, 1998-Continued

## DIVISION TWO (Continued)

[illegible]

The order appealed from (order denying petition to compel arbitration) is reversed. This matter is remanded for further proceedings consistent with *Rosenthal v. Great Western Fin. Securities Corp.*, *supra*, 14 Cal.4th 394. Each side to bear its own costs on appeal.

Zebrowski, J.

We concur:   Boren, P.J.  
                      Nott, J.

## DIVISION THREE

[illegible]

The judgment is affirmed.

Aldrich, J.

We concur:   Croskey, Acting P.J.  
                  Kitching, J.

B106204      People                                  (Not for Publication)  
v.  
Flores, et al.

The judgments are affirmed.

Aldrich, J.

We concur:   Croskey, Acting P.J.  
                  Kitching, J.

DIVISION THREE (Continued)

B103060      Juana Lardizabal      (Not for Publication)

v.  
American Airlines, Inc.

The summary judgment is affirmed. Costs on appeal to defendant.

Croskey, J.

We concur: Klein, P.J.  
Aldrich, J.

B095968      Edward K. Macon, etc.      (Not for Publication)

v.  
United Services Automobile Association

The judgment is affirmed. Macon shall recover his costs on appeal.

Croskey, J.

I concur: Klein, P.J.

B104543      Antonio Medina-Puerta      (Not for Publication)

v.  
Jet Propulsion Laboratory, etc. et al.

The judgment is affirmed. Defendants are awarded their costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.  
Aldrich, J.

DIVISION THREE (Continued)

100394-98

THE HONORABLE ALLAN J. GOODMAN, Judge of the CULVER MUNICIPAL COURT DISTRICT, Los Angeles County, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Three, as a justice thereof, from APRIL 1, 1998, to JUNE 30, 1998, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Dated: MARCH 24, 1998

Ronald M. George  
Chief Justice of California and  
Chairperson of the Judicial Council

DIVISION FOUR

B107631 Coldwell Banker Residential Brokerage Co. (Certified for Publication)  
v.  
Roitz

The judgment is affirmed. Costs on appeal are awarded to respondent.

Hastings, J.

We concur: Epstein, Acting P.J.  
Czuleger, J. (Assigned)



DIVISION FOUR (Continued)

B098735      Jamgotchian      (Not for Publication)

v.  
City of Hawthorne

The judgment is affirmed. Costs on appeal are awarded to respondents.

Hastings, J.

We concur: Epstein, Acting P.J.  
Czuleger, J. (Assigned)

B114617      People      (Not for Publication)

v.  
Alford

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.  
Hastings, J.

B108100      People      (Not for Publication)

v.  
Johnson

The Court:

The judgment is affirmed.

Vogel (C.S.), P.J., Epstein, J., Hastings, J.

### March 26, 1998-Continued

## DIVISION FOUR (Continued)

B114125      Brown      (Certified for Publication)  
v.  
FSR Brokerage

The judgment is reversed. Appellant to recover costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.  
Czuleger, J. (Assigned)

B112099      Los Angeles County, D.C.S.  
v.  
Warren W.

Filed order denying petition for rehearing.

DIVISION FIVE

B104022 People  
v.  
Erik Galen Menendez & Joseph Lyle Menendez

Filed order denying petition for rehearing and joinder.

DIVISION SIX

B116556      BIM Insurance Marketing      (Not for Publication)  
v.  
Santa Barbara County Superior Court  
(Jane Doe, R.P.I.)

Let a writ of mandate issue directing respondent superior court to set aside its order dated August 26, 1997, and to enter a new order sustaining the demurrer with leave to amend. The parties shall bear their own costs. The order to show cause, having served its purpose, is discharged.

Gilbert, J.

We concur:   Stone, P.J.  
                      Coffee, J.

March 26, 1998-Continued

## DIVISION SEVEN

B114284      Silver      (Not for Publication)  
v.  
VBSF, INC., et al.

The judgment of the Superior Court is reversed. The Silver Action is to be restored to the civil active list. Appellant to recover his costs on appeal.

Johnson, J.

We concur: Lillie, P.J.  
Woods, J.

B102454      People                                  (Certified for Partial Publication)  
v.  
Keelen

The judgment is affirmed as to the convictions and the matter is remanded to the trial court for resentencing consistent with the views expressed herein. The defendant shall be present at the hearing on resentencing.

Johnson, J.

We concur: Lillie, P.J.  
Woods, J.